



BRUCE R. EWING
Partner
(212) 415-9206
ewing.bruce@dorsey.com

May 3, 2023

VIA ECF

The Honorable Lorna G. Schofield
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *North Star IP Holdings, LLC v. Icon Trade Services LLC*,
Case No. 1:22-cv-07324-LGS**

Dear Judge Schofield:

We represent Defendant/Counterclaimant/Third-Party Plaintiff Icon Trade Services LLC (“Icon”), and we write jointly with counsel for Plaintiff/Counterclaim-Defendant North Star IP Holdings, LLC (“North Star”) and Third-Party Defendants Jalapeno Pizza Holdings LLC and Jalapeno Pizza LLC (collectively, “Third-Party Defendants”). Pursuant to paragraph 13(b) of the Fourth Amended Civil Case Management Plan and Scheduling Order (Dkt. 71) (the “Case Management Plan”) and Individual Rule III.D.3, the parties write to update the Court regarding the status of the litigation and settlement discussions.

A. Status of Discovery:

Per the Case Management Plan, fact discovery in this case was divided into two phases. The first phase of fact discovery concerned North Star’s claims in its Amended Complaint, Icon’s affirmative defenses to those claims, and Icon’s declaratory judgment counterclaim. The first phase of fact discovery is now complete.

During the first phase of fact discovery, the parties propounded discovery requests, produced discovery in response to those requests, and produced witnesses for depositions. Specifically, on November 3, 2022, North Star and Icon each served requests for production of documents and interrogatories. On the same date, North Star also served requests for admission. The parties served responses and objections to the discovery requests on December 5, 2022. On January 13, 2023, North Star and Third-Party Defendants served supplemental responses to Icon’s first set of interrogatories. On January 30, 2023, Icon served supplemental responses to North Star’s first set of interrogatories. Following and pursuant to the Court’s Order on April 18, 2023 (Dkt. 70), Icon collected and produced documents from Morris Missry related to Icon’s potential acquisition of the REBECCA MINKOFF assets and the UCC Article 9 foreclosure sale; Icon produced a Rule 30(b)(6) witness to testify about the topic of royalties; and North Star produced communications between Sunrise and QVC and North Star and QVC.



The Honorable Lorna G. Schofield
 May 3, 2023
 Page 2

The parties completed a rolling production of documents. To date, North Star and Third-Party Defendants have produced documents bearing production numbers NSRM0000001-NSRM0004994 and Icon has produced ICON_00000001-ICON_00001103:

<u>Document Production Schedule</u>		
<u>Date of Production</u>	<u>Producing Party</u>	<u>Number of Documents</u>
December 5, 2022	Icon	14
December 14, 2022	North Star and Third-Party Defendants	24
December 27, 2022	North Star and Third-Party Defendants	4
January 4, 2023	Icon	35
January 9, 2023	North Star and Third-Party Defendants	5
January 13, 2023	North Star and Third-Party Defendants	368
January 16, 2023	North Star and Third-Party Defendants	42
January 18, 2023	North Star and Third-Party Defendants	2
February 1, 2023	North Star and Third-Party Defendants	524
February 2, 2023	North Star and Third-Party Defendants	1
February 6, 2023	Icon	9
February 8, 2023	Icon	1
February 15, 2023	North Star and Third-Party Defendants	5
February 24, 2023	Icon	1
April 28, 2023	Icon	27
April 28, 2023	North Star and Third-Party Defendants	5

The parties have also taken the following depositions of fact witnesses and company representatives:



The Honorable Lorna G. Schofield
 May 3, 2023
 Page 3

<u>Deposition Schedule</u>		
<u>Witness</u>	<u>Role in Deposition</u>	<u>Date of Deposition</u>
Uri Minkoff	Third-Party Defendants' Designee under Fed. R. Civ. P. 30(b)(6)	February 9, 2023
Gary Herwitz	Third-Party Defendants' Designee under Fed. R. Civ. P. 30(b)(6)	February 24, 2023
Tom Ott	Icon's Designee under Fed. R. Civ. P. 30(b)(6)	February 28, 2023
Christian Trunnell	North Star's Designee under Fed. R. Civ. P. 30(b)(6)	March 10, 2023
Joseph Edery	Icon's President and Chief Executive Officer who testified both as a fact witness and as a Fed. R. Civ. P. 30(b)(6) witness	March 28 and 30, 2023
Gerard Guez	Chief Executive Officer of Sunrise Brands, LLC's, one of North Star's members who testified as a fact witness	March 29, 2023
Angela Poppe	Icon's Chief Financial Officer and Designee under Fed. R. Civ. P. 30(b)(6)	April 27, 2023

The parties agree that the first phase of fact discovery is complete.

B. Procedural History of the Case:

Below is a list of the pleadings that were filed:

<u>Pleading</u>	<u>Filing Party</u>	<u>Date Filed</u>
Complaint (Dkt. 1)	North Star	August 26, 2022
Answer to Complaint (Dkt. 12)	Icon	September 9, 2022
Counterclaims and Third-Party Complaint (Dkt. 13)	Icon	September 9, 2022
Amended Complaint (Dkt. 23)	North Star	September 29, 2022
Amended Answer to Amended Complaint (Dkt. 28)	Icon	October 13, 2022



The Honorable Lorna G. Schofield
May 3, 2023
Page 4

Answer to Counterclaims and Third-Party Complaint (Dkt. 42)	North Star and Third-Party Defendants	November 4, 2022
--	---	------------------

The parties have not filed any dispositive motions to date. There are no motions pending.

C. Status of Settlement Discussions:

The parties met with a mediator from the Court-annexed Mediation Program on January 9, 2023. Dkt. 58. After the mediation, the parties were unable to resolve this case.

Respectfully Submitted,

/s/ Bruce R. Ewing

Bruce R. Ewing

cc: All Counsel of Record (via ECF)